1893-035 Chancery Causes: J. R. McDowell, trst. vs. G. B. Burchett &c
Lee Co.

Ayers

CA-Debt
T-Property

-Deed

To the Hon H. S. K. Morison Judge of the Circuit Court of Lee County Virginia. Your orator J. R. McDowell trustee, who humbly complaining would respectfully represent that heretofore on the 22d day of July 1889 G. B. Burchett and John Ayers executed to "Frick Company" an Incorporation under a by virtue of the laws of the state of Pennsylvania, doing business in the state of Virginia, two negotiable notes for forty four dollars each dated July 22d 1889, one made payable on the 22 day of Jan 1890 and the other the 22 day of July 1890, in each of which the parties waived the benefit of their Homestead exemption and agreed to pay 10 per cent as atty fee thereon and the formality of protest, neither one of these notes nor no part thereof has ever been paid, but are now wholly due the said Frick Company, and are each herewith filed as part hereof. They are the part purchase price of one Frick Company 8 Horse power, no Triple gear Complete with the sweeps Tumbling rods, Brace rods and all

fixtures with or belonging to the same also one truck wagon under the same. And on the same day the said G. B. Burchett executed a deed of trust on said engine & truck wagon, and several horses & mules and two tracts of land lying and being in Claiborne County Tenn. also one tract of land containing 145 acres lying and being in the Rose Hill District Lee County Va belonging to the said G. B. Burchett adjoining the lands of the Ely heirs on the North, D. C. Willis on the South, Wm Boles on the east and the Literal heirs on the west, to secure these two notes, to secure these two notes, and two others - one falling due Oct 22 1890 for a like sum of $44.00 and otherwise like the two first the other for $43.00 falling due Jan 22 1891 - all bearing interest at the rate of 6% pr annum - all waiving the Home Stead and protest - these last two are likewise unpaid and will in due time be filed herewith as part hereof - These last ade also executed to the Fitch Company - This deed of trust has been

duly recorded in the County Court clerks office of this County and constitutes as your orator is advised a lien upon all the real and personal estate therein belonging to the said E. B. Burchett, situated in Lee County Virginia - and property described in said deed of trust which is also herewith filed marked „B" and is prayed to be considered herewith.

The said Ayers is only the security of the said Burchett and your orator is informed the said Burchett property embraced in said trust will pay and discharge the same, and that if it will so do a Court of equity will first hold him liable who is the principal

The object of this bill therefore is to enforce said trust, and compel a sale of said property and if found necessary, sell and rent said real estate to pay the same. The said deed of trust creating a lien is as your orator is advised enforceable only in equity where trust are administered and enforced. Should said property pay and discharge said debts

then no relief is sought against said Ayers but should that fail then your orator prays for a decree over against him for the two notes signed by him.

The prayer of your orator therefore is that G. B. Burchett and John Ayers be made parties defendants to this bill and answer its allegations ~~sup~~ - but they need not do so upon oath that being expressly waived. And on a hearing said lien must be enforced and said lien herein asserted be carried out. That said Eugene & wagon be sold and so much of said land and other property as may be necessary to pay the same and should said property prove unavailing then that a personal decree be rendered against the defendants for the amount thereof. And for all other further and general relief may supa issue &c

A. L. Pridemore

P. Q.

Sap 1.50
Co 8.83
S 1.00
Dr. 15.00
$26.33
Estimate 4.59 to Clerk
$30.92
Comr 2.50
$33.42

38.30
33.42
$4.88 Bal.

14.92
11.96
2.06

P

J. R. McDowell

vs } Bill chy

G. B. Burchett etal

1891. 2nd Feby Rules Bill filed Spa Exd & D. Nisi
" 1st Mr. Rules D. N. Confd
" 2nd Mr. Rules Cause set for hearing by Pltff
" March Term Contd
" Aug Decree & Contd
" Dec Continued
1892. Contd
1893. March Decree final

J. R. McDowell Trustee
vs.
G. B. Burchett et al } Ins Chancery

This cause came on again to be heard upon the papers formerly read therein and the report of sale of such of the property in said deed of trust as was found in this State by James A. Vandeventer filed in this cause on the 26 day of Febr. 1892 and it appearing that said report is very explicit, it is therefore adjudged, ordered and decreed that said report & sale be and is hereby confirmed, and it appearing that the money on said sale has been paid ~~it is~~ & there being nothing further to be done in said cause the said cause is ordered to be stricken from the docket.

J. R. McDowell

vs } Decree final

G. B. Buchanan et al

Entered Chy O B
page 440. March
8th 1893. Hyatt C

Enter this
March 8 1893.
H. L. K. N.C

J. R. McDowell trustee
against
G. B. Burchett et al.

Decree

This cause came on this day to be heard upon the bill of the pltff taken for confessed and exhibits filed and was argued by Counsel - On consideration whereof and for reasons appearing to the Court, it is adjudged ordered and decreed that the pltff J. R. McDowell trustee for the Frick Company a body corporate, recover from G. B. Burchett and John Eyers the sum of $88.00 and legal interest on $44. part thereof from the 22d. day Jan. 1890 till paid and the like interest on $44.00 the residue thereof from July 22 1890 till paid; and the costs of this suit. And it appearing that, two notes are a lien upon one Frick Company 8 horse power thrashing machine tripple gear complete with tumbling rods &c also one gray horse about 6 years old, one bay mare about 9 years old

one bay mare about 4 years old named Beck - also an a tract of 145 acres of land situated in Lee County Virginia the property of G. B. Burchett and Eliza Burchett and it being admitted by the pltff by counsel that it is inconvenient for him to execute said trust, D. C. Sowell who is hereby appointed a special commissioner, for the purpose, will proceed to, execute said trust by selling so much of said property for ready cash as will pay the same, he will sell first such property as the said Burchett may direct - But before proceeding to execute this decree he will execute bond before the Clerk of this Court in a penalty of $200 with approved security, conditioned to duly performing the duties hereunder.
He will then make sale

of said property on some
court day at the front
door of the Court House of
this County by public cri
cry to the highest bidder
for ready cash.
He will report his action
to this Court at its next
term & the cause is con-
tinued.

J. R. McDowell
Trustee

vs } Decree
for Sale
G. B. Burchett

Aug. 7. 1891

Entered Chcy O.B.
p. 356
Sept 4, 1891,
J. A. G. Hyatt

Entered Ries
Sept 4 1891
H. S. K. M.

J. R. McDowell, Trustee,
vs. } In Chancery.
G. B. Burchett & al.

To the Hon. H. S. K. Morison,
Judge of the Circuit Court
for Lee County, Virginia.

The undersigned respectfully represents unto your honor, that on the 4th day of Sept., 1891, your honor appointed D. C. Sewell a special commissioner for the purpose of selling the property set-out in the deed of trust included in the above styled cause, and in the manner therein set-forth. And it appearing to said D. C. Sewell, Special Comr, on investigation, that none of the property covered by said deed of trust was in existance, or within the jurisdiction of this court, except an old and worn threshing machine, and that said threshing machine was some 25 or 30 miles away from the court-house and would not sell at public auction for much more than enough to pay for the transportation thereof to the court-house, the

place designated for the sale thereof; and it being inconvenient for said D. C. Sewell to execute your honor's said decree, he directed the undersigned to take said property into possession and to dispose of same to the best advantage.

The undersigned, therefore, in pursuance of the premises, reports that on the 27th day of Nov., 1891, he took into his possession the threshing machine described in said deed of trust, and after advertising the same at different places, he, on the 20th day of Feb., 1892, sold the same at public outcry, to the highest bidder, for cash in hand, and realised therefor $40.70, which sum, less $2.50, he paid to Mess. Pennington & Goins, Attys. in said cause.

All which is respectfully submitted. This Feb 23rd 1892.

J. A. Vandiverde
Dept. for C. E. Flanary
S. L. C.

$38 30/100. Received from Jas. A. Vandeventer, deputy sheriff, Thirty-eight dollars & thirty cents ($38.30), a part of the proceeds of the sale of the above threshing Machine. This Feb. 23, 1892.

Pennington & Gains, Attys

J. R. McDowell &c.

vs } Com'rs Report.

G. B. Burchett & al.

Filed Feb. 23/92.

J. A. S. Hyatt D

Tennessee.

$44.00

Dated at Knoxville on July 22nd 1889

On the 22nd day of July 1890, For value received, we or either of us, of Walnut Hill Post office County of Lee State of Virginia promise to pay to Frick Company, or order Forty four & 00/100 Dollars Payable & negotiable without offset at Powellvalley Bank of Jonesville Va with interest at six per cent per annum from date until paid; and if not paid in full at maturity or if there is any breach or default of this or any other note of this series, and this note is placed in the hands of an attorny or collecting agent or officer, it is agreed that ten per cent on the amount remaining unpaid shall be added & collected as a fee or commission to such attorney agent or officer. The makers and endorsers of this note severally waive presentment for payment, protest and notice of protest and non payment and all relief from valuation appraisement, exemption, homestead and stay laws as to this note. This is one of a series of 4 notes of even date here with payable to the order of Frick Company, and it is agreed that this note may be treated as due, and may be sued upon immediately upon default or other breach of any of the notes of this series

witness

John W. Cheatham

G. B. Burchett

his

John mark Byers

Copy of Note
No. 152 original
sent to Leo. to
file in suit
in Tenn
Testo J. H. L. Hyatt

Tennessee

$ 44.00 / 46.64 Dated at Knoxville on July 22nd 1889

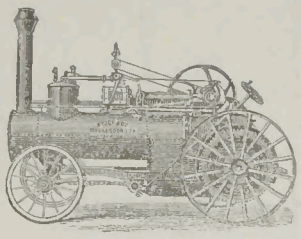
On the 22nd day of Jany 1890, For value recd, we or either of us. of Walnut Hill post Office, County of Lee State of Virginia promise to pay to Frick Company or order Forty four & 64/100 Dollars payable & negotiable, without offset at, Powells Valley Bank of Jonesville Va. with interest at six per cent per annum from date until paid, and if not paid in full at maturity, or if there is any breach whatever of this or any other note of this series, and this note is placed in the hands of an attorney or collecting agent or officer, it is agreed that ten per cent, on the amount remaining unpaid shall be added and collected as a fee or commission to such attorney agent or officer. The makers and endorsers of this note severally waive presentment for payment, protest and notice of protest and non payment, and all relief from valuation appraisement, exemption, homestead and stay laws as to this note - This is a series of 4 notes of even date herewith payable to the order of Frick Co, and it is agreed that this note may be treated as due and may be sued upon immediately upon default or other breach of any of the notes of this series. Witness

L. B. Burchett

John W. Cheatham

his John Ayers mark

No 2



This Deed,

Made the 22nd day of July A. D., 1889, between G. B. Burchett & wife Eliza Burchett and John Ayers of Walnut Hill

of

County of Lee and State of Virginia party of the first part, and J. B. McDowell of Knox County of Knox and State of Tennessee party of the second part, TRUSTEE, WITNESSETH, That the said party of the first part, for and in consideration of one dollar to them in hand paid, and the other considerations hereinafter mentioned, ha.....this day granted, bargained, sold and conveyed, and do.....hereby grant, bargain, sell and convey, unto the said party of the second part, his successors and assigns forever, the following described Real Estate and Personal Property, to-wit: One lady Company's Power & Engine for complete with Runner, Cutter, Stacker, Thresher & all fixtures with also

One ~~Red Horse~~ about 6 years old, name Brim the property
[Here insert color and age of horse or cow, as the case may be.]

of G. B. Burchett, the same that he ~~purchased~~ raised of himself also

One Bay mare about 9 years old, name Bettie the property
[Here insert color and age of horse or cow, as the case may be.]

of G. B. Burchett, the same that he purchased of Bayless Litterell also one Bay mule about 4 years old named Beck the property of John Ayers the same that he purchased of Elias Grim, also one Bay mule about 6 years old name Kit the property of John Ayers the same that he purchased of, also one Bay horse about 7 years old named Lowry the property of John Ayers, the same that he raised himself

Also, one tract of land, containing 226 acres, lying and being in the 5th Civil District of Claiborne County, State of Tennessee, belonging to and in the name of G. B. Burchett & Eliza Burchett adjoining the lands of the Gibson heirs on the North, The American Association on the South, Grant & The Sutton heirs on the East, on the West, and being the same that he purchased or acquired from Thomas Dawson & Jas. McNeil and Swanson as the Gibson Farm

Erase all clauses not describing property mortgaged.

ALSO, One tract of land containing 160 acres lying and being in the 6th Civil District of Claiborne Co. Tenn. belonging to and in the name of G. B. Burchett & joining the lands of D. W. Bryce on the South, Barrett & Peterson on the East, John Langhorn on the west and the Dowell heirs on the north being the same that Mary Wilkes willed to Grim by his father, also one tract of land containing 145 acres lying and being in the Rose Hill Dist. & Lee Co. Va. belonging to and in the name of G. B. Burchett & Eliza Burchett & adjoining the lands of the Rose heirs on the south, D. G. Wilkins on the East, Prestonburg on the West & the Dowell heirs on the north

If no Real Estate is included, strike this part out.

The said G. B. Burchett & wife E. Burchett owner of said Real Estate, do.....covenant with said Trustee, his successors and assigns, that they are lawfully seized of said Real Estate, and have a good right to convey it, and that the same is unencumbered, and do....covenant and bind themselves.....heirs and legal representatives, to warrant and defend the title to said Real Estate to said Trustee, his successors and assigns, against the lawful claims of all persons.

TO HAVE AND TO HOLD the said described property, personalty and realty, all and singular, unto the said Trustee, his successors and assigns, forever.

But this Deed is made for the following purposes, and no other; that is to say: G. B. Burchett John Ayers ~~G. B. Burchett~~ justly indebted to ~~Greer~~ Fricke Machinery Company, of Knoxville, Knox County, Tennessee, in the sum of One hundred & seventy five & 00 Dollars, with interest, according to the terms of Four certain promissory notes, duly executed by them payable to ~~Greer~~ Fricke Machinery Company, or order, as follows:

One Note dated July 22 1889,	due Oct. 22 1889,	for $ 44.00
One Note dated " 22 1889,	due Jany 22 1890,	for $ 44.00
One Note dated " 22 1889,	due July 22 1890,	for $ 44.00
One Note dated " 22 1889,	due Jany 22 1891,	for $ 45.00
One Note dated 189....	due 189 ..,	for $
One Note dated 189....	due 189... ,	for $

and being desirous to secure and make certain the payment of the same, and all renewals and extensions thereof, the party of the first part makes this conveyance.

NOW, THEREFORE, If the said party of the first part, or any one of them, shall pay said notes as they each become due, with the interest thereon, then this deed of conveyance shall be null and void.

But if default is made in the payment of any of said notes, in whole or in part, or of the interest thereon, at the time limited for the payment of the same; or, if said party of the first part shall sell, assign, or dispose of, or attempt to sell, assign, or dispose of, the whole or any part of said personal property, or remove, or attempt to remove, or permit the removal of the whole or any part thereof, from the county of Claiborne Tenn. Lee Va without the written consent of ~~Greer~~ Fricke Machinery Company, or assigns; or, if any execution or other writ shall be levied, or be about to be levied, on said personal property, or any part thereof;

or, if said GREER MACHINERY COMPANY, or assigns, shall, for any other reason, deem themselves insecure, then, in any of said events, this conveyance remains in full force and effect, and the whole sum hereby secured shall immediately become due and demandable, and said Trustee, or his successor in trust, is hereby authorized and empowered, upon the written request of GREER MACHINERY COMPANY, or assigns, or without such request, if he sees fit, to take the personal property herein described into immediate possession, and remove the same to such place as he thinks proper, and sell the same for cash, or on credit with approved security, as to the Trustee may seem best for said GREER MACHINERY COMPANY, to the highest bidder, after giving ten days' written or printed notice, to be posted at one or more public places in the vicinity where the property is to be sold, and one at the court house door, in in Claiborne Tenn. & Lee County. Va

If no real estate is included, strike this part out.

And upon making total or partial default in the payment of the above notes, according to their tenor and conditions, the said Trustee, or his successor in trust, after sale of the personal propery herein conveyed, or before resorting to the same, as he may elect, may, and he is hereby authorized and empowered, upon giving thirty days' notice by advertisement in some newspaper published at Jonesville or Tazewell or by printed or written posters, posted in five public places in the county where sale is made, one to be posted at the court house door, to sell said real estate at Jonesville or Tazewell to the highest bidder for cash, and said Trustee, or his successor in trust, shall make a deed to the same to the purchaser, and shall take immediate possession of said real estate and deliver the same to the purchaser or purchasers; and said Trustee is hereby authorized to take any legal steps that he may deem necessary to acquire such immediate possession of said premises. The said G. B. Burchett & wife E. Burchett do hereby expressly waive the equity of redemption, right of homestead, and the requirements of the statutes as to Trustee's bond and oath. And in case of death, absence, inability or refusal to act, of said Trustee, at any time when his action under the foregoing trusts may be required, then GREER MACHINERY COMPANY, or assigns, are hereby authorized and empowered to name and appoint a Trustee to execute the trust, and the title herein conveyed to the Trustee herein named shall be vested in such appointee, who is hereby empowered to perform all the duties under this trust which the said Trustee herein named is empowered to perform.

The proceeds of any of the property, personal or real, sold as herein provided, shall be applied:

First. To pay the costs, charges and expenses of executing this trust, including commissions to Trustee, and also Attorney's fees and all costs and expenses incurred in enforcing or protecting this trust.

Second. To pay said notes, or renewals or extensions, or any balance thereof remaining unpaid; it being understood and hereby agreed to, that, the proceeds may be applied on said notes in the inverse order of their maturity, or as GREER MACHINERY COMPANY or assigns may direct, and the fact of any note not being then due shall not prevent the proceeds of such sale from being thus applied to it in preference to such as may then be due.

Third. The residue, if any, is to be paid over to the party of the first part.

IN WITNESS whereof the parties of the first part have hereunto set hands and seals.

WITNESSES:

F. W. Cheatham

O. Schumlyeard

G. B. Burchett [SEAL.]

[SEAL.]

[SEAL.]

[SEAL.]

[SEAL.]

[SEAL.]

STATE OF Tennessee }
COUNTY OF Sevier } ss.

Personally appeared before me E. H. Scarborough a Notary in and for said County, the within named bargainors, G. B. Burchett & E. W. Cheatham & O. Schumlyeard the witnesses to the within deed of trust, with whom I am personally acquainted, and who acknowledged that they executed the within instrument for the purposes therein contained. And wife of the said G. B. Burchett the bargainor having appeared before me privately and apart from her husband, the said E. Burchett acknowledged the execution of the said Deed to have been done by her freely, voluntarily and understandingly, without compulsion or constraint from her said husband, and for the purposes therein expressed.

Witness my hand and official seal, at office in Sevierville on this the 23rd day of July A. D. Eighteen Hundred and eighty nine

E. H. Scarborough notary public of said County & State

STATE OF TENNESSEE, Virginia }
COUNTY OF Lee to wit } ss.

In the Register's OFFICE Office Clerk of said County 189

A, the 11th day January 1890, Register for said County, do certify that the foregoing deed of trust and certificate were received 189, at o'clock and entered on page of Note Book, No, and registered to-day in book, page, of my office.

deed was presented & with the certificate annexed admitted to record this

Teste John R. Gibson Clk.

A Copy
Teste J. A. S. Hyatt C

TENNESSEE.

No.

TRUST DEED

FROM

G. B. Burchett

TO USE OF

Greer Machinery Company.

STATE OF TENNESSEE, }
County of Claiborne } ss.

Received for record this 16th day of January 1890 at 4.0 o'clock P. M., and recorded in book M 1 on page 547 et seq

Geo. F. Gaut Register.

By J. D. Porter D. R.

When wife joins in the Deed, her name must appear at the commencement with her husband's.

Have this Deed acknowledged before a Notary Public or Clerk or Deputy Clerk of County Court, and get it recorded at once.

Received in Deed Book No 24 p 457
Teste John R. Gibson
Clerk the County Court
Jany 25 1890
Examined

The Commonwealth of Virginia.

To The Sheriff Of Lee County Greeting:

We Command You to Summon J. B. Rutledge and John Ayers

To appear at the Clerk's Office of the Circuit Court of Lee County, at the Courthouse on the ~~first~~ third Monday in February next, being rule day to answer a bill in Chancery exhibited in our said Court against them by J. R. McDowell Trustee

And have then and there this writ. Witness, J. A. G. Hyatt, Clerk of said Court at the Courthouse. This 29th day of January 1891, in the 115 year of the Commonwealth.

J. A. G. Hyatt *Clerk.*

A Copy Teste

P

J. R. McDowell

vs Sumr. Ctcy

G. B. Burchett et al

To 2nd Feby Rules 1891.

Executed Feby the 3rd 1891 by delivering an office copy of the within Sumons to the ~~Defts~~ Ctcy G. B Burchett and John Akers this the 3rd day of Feby 1891

A. B Munsey

S. F. C